

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2601 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

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STATE OF GUJARAT

Versus

SEVANTILAL MANEKLAL SHETH

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Appearance:

MR DA BAMBHANIA for Petitioner

MR RM CHHAYA for Respondent No. 1, 2 & 3.

SERVED BY RPAD for Respondent No. 4 & 5.

MS. HARSHA DEVANI, ASSTT. GOVERT. PLEADER  
for Respondent No. 6

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CORAM : MR.JUSTICE R.R.JAIN

Date of decision: 06/05/97

ORAL JUDGEMENT

The order dated 16.5.1995 passed by the Urban Land Tribunal at Ahmedabad in Appeal No.Rajkot-13 of 1995 setting aside the order passed by the Competent Authority

on 16.5.1994 has been challenged by the State of Gujarat by filing this petition. Respondents Nos.1 to 3 are represented by Mr.R.M.Chhaya whereas respondents Nos.4 and 5 though served have not appeared.

2. The record shows that property bearing survey No.489 is owned by a private trust, namely, Anjali Sevantilal Sheth Trust, and yet the same was shown as the holding of one Sevantilal M.Sheth in the form filled under Section 6 of the Urban Land (Ceiling & Regulation) Act, 1976 (the Act for brief). Though from the record it could be borne out that the property was of the ownership of Anjali Sevantilal Sheth Trust, the Competent Authority considered it as holding of Sevantilal M. Sheth and declared as excess land. The order was challenged by Smt.Purnima Sevantilal Sheth, a trustee of Anjali Sevantilal Sheth Trust, under Section 33 of the Act and the Tribunal vide its order dated 16.5.1995 allowed the appeal setting aside the order passed by the Competent Authority holding that the property in question enjoys exemption under Section 19 (1) (iv) of the Act, consequently could not have been declared as excess land.

3. Mr.Chhaya for respondents Nos.1 to 3 has fairly stated that Section 19 (1) (iv) applies to land owned by public charitable or religious trusts (including Wakf) and required and used for any public charitable or religious purposes. In this case, though the land is owned by a trust, namely, Anjali Sevantilal Sheth Trust, it is a private trust therefore, on the face of it, cannot enjoy protection of this provision. Despite this legal position, the Tribunal has granted protection. In my view, on the face of it, this is de hors the provisions of law and requires reconsideration. Thus, the order being illegal and lacking application of mind is required to be quashed and set aside.

4. In the result, the petition is allowed. The impugned order, Annexure-A, dated 16.5.1995 passed by the Urban Land Tribunal in Appeal No.Rajkot-13 of 1995 is quashed and set aside, as a result of which all the subsequent orders passed by the Competent Authority in relation to said property bearing survey No.489 shall stand quashed and set aside. The matter is remanded to the Competent Authority for fresh consideration in accordance with law in relation to land bearing survey No.489 only. The Competent Authority is directed to decide the matter within eight weeks from the date of receipt of writ from this Court. Rule is made absolute accordingly with no order as to costs.

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